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*Attorneys for Plaintiff***UNITED STATES DISTRICT COURT****DISTRICT OF NEVADA**

IRELAND BANK, a foreign corporation,

Plaintiff,

vs.

MARS DKI, LLC, a Nevada limited liability company dba MARS RESTORATION, LLC dba MARS DKI fka MITIGATION AND REPAIR SOLUTIONS, INC. dba MARS RESTORATION; McTHOMAS S. WIDEEN, an individual; DENISE J. WIDEEN, an Individual; DISASTER CLEAN-UP CONSTRUCTION, INC. dba RESTOTECH WATER & FIRE DAMAGE RESTORATION COMPANY dba RESTOTECH DKI dba DKI RESTOTECH, a foreign corporation; GINO WIDEEN, an individual; RAYMIE WIDEEN, an individual; CONTRACTORS BONDING & INSURANCE COMPANY, an authorized surety; MARJORIE LAMB, an individual; CBRE TECHNICAL SERVICES, LLC dba BUILDING TECHNOLOGY ENGINEERS OF NORTH AMERICA, LLC, a foreign limited liability company; MARY ANN CALDARULO, an individual; SUN CITY SUMMERLIN NEIGHBORHOOD MAINTENANCE ASSOCIATION, INC., a Nevada non-profit cooperative corporation; NEST INTERNATIONAL, a foreign corporation; HAND PROPERTY MANAGEMENT COMPANY, a Nevada non-profit corporation; ARGUS CONSTRUCTION, INC., a Nevada corporation; PREMIER INSTALLATION CORPORATION, a Nevada corporation; ENERGY REO SOLUTIONS, a foreign corporation; CLARK COUNTY WATER RECLAMATION DISTRICT, a quasi-governmental political subdivision of the State of Nevada; GINA DENNEY, an individual;

Case No.:

Dept. No.:

COMPLAINT

1 ALPINE WATER SYSTEMS, LLC, a Nevada
2 limited liability company; AHEARN TENNIS
3 MANAGEMENT GROUP OF NEVADA, L.L.C.
4 dba INTERNATIONAL TENNIS CENTRE LAS
5 VEGAS, a Nevada limited liability company;
6 WESTERN SURETY COMPANY, an authorized
7 surety; MICHAEL LEE PETERSON; an individual;
8 AMERICAN CONTRACTORS INDEMNITY
9 COMPANY, an authorized surety; OLD REPUBLIC
10 INSURANCE COMPANY, an authorized insurance
11 company; CINTHIA VINCENT, an individual;
12 ZEBENAY WORKNEH, an individual; JOHN
13 DOES I-XV; ROE ENTITIES, I-XV,

14 Defendants.

15 COMES NOW, the above-named Plaintiff, Ireland Bank (the “Plaintiff” or “Bank”), by and
16 through its attorneys, Christensen James & Martin, and for its causes of action against the above-
17 named Defendants, asserts, alleges and complains as follows:

18 **I.**

19 **JURISDICTION & VENUE**

20 1. The Court has jurisdiction of this case pursuant to 28 U.S.C. § 1332 because the
21 amount in controversy exceeds the sum or value of Seventy Five Thousand Dollars (\$75,000.00),
22 exclusive of interest and costs, and the action is between citizens of different States.

23 2. This Court has pendant jurisdiction over all other ancillary causes of action
24 pursuant to 28 U.S.C. § 1367.

25 3. Venue is proper pursuant to 28 U.S.C. § 1391 because a substantial portion of the
26 events, omissions, and/or property giving rise to this Complaint occurred in this judicial district.

27 **II.**

28 **PARTIES**

4. Plaintiff is an Idaho Bank organized under the laws of the State of Idaho with a
principal place of business in the State of Idaho.

5. At all times material herein, Defendant MARS DKI, LLC dba MARS
RESTORATION, LLC dba MARS DKI, has been and is a Nevada limited liability company,
formerly known as MITIGATION AND REPAIR SOLUTIONS, INC. dba MARS RESTORATION,

1 a Nevada corporation (collectively “MARS”), with a principal place of business in the State of
2 Nevada and a licensed Nevada Contractor authorized to conduct business in Clark County, Nevada.

3 6. At all times material herein, Defendants MARS DKI, LLC; MARS RESTORATION,
4 LLC; MARS DKI; MITIGATION AND REPAIR SOLUTIONS, INC; and MARS
5 RESTORATION, and each of them, were the agent, partner, employee, successor and/or alter-ego
6 of each other, and in doing the things herein alleged, were acting within the course and scope of said
7 agency, partnership or relation, with the permission and consent of their co-defendants, and that each
8 of them were working as a single entity, enterprise, employer and business in fact.

9 7. At all times material herein, Defendant McTHOMAS S. WIDEEN (“M. Wideen”)
10 was or is a resident of Clark County, Nevada.

11 8. At all times material herein, Defendant DENISE J. WIDEEN (“D. Wideen”) was or
12 is a resident of Clark County, Nevada.

13 9. At all times material herein, Defendant DISASTER CLEAN-UP CONSTRUCTION,
14 INC. dba RESTOTECH WATER & FIRE DAMAGE RESTORATION COMPANY dba
15 RESTOTECH DKI dba DKI RESTOTECH (“Restotech”) has been and is a California corporation
16 with a principal place of business in the State of California and a licensed California contractor that
17 is authorized to conduct business in Clark County, Nevada.

18 10. At all times material herein, Defendants DISASTER CLEAN-UP
19 CONSTRUCTION, INC., RESTOTECH WATER & FIRE DAMAGE RESTORATION
20 COMPANY, RESTOTECH DKI and DKI RESTOTECH, and each of them, were the agent, partner,
21 employee, successor and/or alter-ego of each other, and in doing the things herein alleged, were
22 acting within the course and scope of said agency, partnership or relation, with the permission and
23 consent of their co-defendants, and that each of them were working as a single entity, enterprise,
24 employer and business in fact.

25 11. At all times material herein, Defendant GINO WIDEEN (“G. Wideen”) is or was a
26 resident of Clark County, Nevada.

27 12. At all times material herein, Defendant RAYMIE WIDEEN (“R. Wideen”) is or was
28 a resident of Clark County, Nevada.

1 13. At all times material herein, Defendant CONTRACTORS BONDING &
2 INSURANCE COMPANY ("CBIC") has been and is a Washington corporation with a principal
3 place of business in the State of Washington that is authorized to conduct business as a surety in the
4 State of Nevada.

5 14. At all times material herein, Defendant MARJORIE LAMB ("M. Lamb") is or was
6 a resident of Clark County, Nevada.

7 15. At all times material herein, Defendant CBRE TECHNICAL SERVICES, LLC dba
8 BUILDING TECHNOLOGY ENGINEERS OF NORTH AMERICA, LLC ("CBRE") is or was a
9 Delaware limited liability company with a principal place of business in the State of Texas that is
10 authorized to conduct business in Clark County, Nevada.

11 16. At all times material herein, Defendant MARY ANN CALDARULO ("M.
12 Caldarulo") is or was a resident of Clark County, Nevada.

13 17. At all times material herein, Defendant SUN CITY SUMMERLIN
14 NEIGHBORHOOD MAINTENANCE ASSOCIATION, INC. ("Sun City") has been and is a Nevada
15 non-profit cooperative corporation with a principal place of business in the State of Nevada that is
16 authorized to conduct business in Clark County, Nevada.

17 18. At all times material herein, Defendant NEST INTERNATIONAL ("NEST") has
18 been and is a foreign corporation with a principal place of business in the State of New Jersey that
19 is authorized to conduct business in Clark County, Nevada.

20 19. At all times material herein, Defendant HAND PROPERTY MANAGEMENT
21 COMPANY ("HPM") has been and is a Nevada non-profit corporation with a principal place of
22 business in the State of Nevada that is authorized to conduct business in Clark County, Nevada.

23 20. At all times material herein, Defendant ARGUS CONSTRUCTION, INC. ("Argus")
24 has been and is a Nevada corporation with a principal place of business in the state of Nevada and
25 a licensed Nevada Contractor that is authorized to conduct business in Clark County, Nevada.

26 21. At all times material herein, Defendant PREMIER INSTALLATION
27 CORPORATION ("Premier") has been and is a Nevada corporation with a principal place of
28 business in the State of Nevada that is authorized to conduct business in Clark County, Nevada.

1 22. At all times material herein, Defendant ENERGY REO SOLUTIONS (“ERS”) has
2 been and is a Minnesota corporation with a principal place of business in the State of Minnesota that
3 is authorized to conduct business in Clark County, Nevada.

4 23. At all times material herein, Defendant CLARK COUNTY WATER
5 RECLAMATION DISTRICT (“County”) has been and is a quasi-governmental political subdivision
6 of the State of Nevada.

7 24. At all times material herein, Defendant GINA DENNEY (“G. Denney”) is or was
8 a resident of Clark County, Nevada.

9 25. At all times material herein, Defendant ALPINE WATER SYSTEMS, LLC
10 (“Alpine”) has been or is a Nevada limited liability company with a principal place of business in
11 the State of Nevada and a Nevada licensed contractor that is authorized to conduct business in Clark
12 County, Nevada.

13 26. At all times material herein, Defendant WESTERN SURETY COMPANY (“WSC”) has
14 been or was a South Dakota corporation with a principal place of business in the State of South
15 Dakota that is authorized to conduct business as a surety in Clark County, Nevada.

16 27. At all times material herein, Defendant MICHAEL LEE PETERSON (“M.
17 Peterson”), is or was a resident of Clark County, Nevada.

18 28. At all times material herein, Defendant AMERICAN CONTRACTORS
19 INDEMNITY COMPANY (“ACIC”) has been or was a California corporation with a principal place
20 of business in the State of California that is authorized to conduct business as a surety in Clark
21 County, Nevada.

22 29. At all times material herein, Defendant OLD REPUBLIC INSURANCE COMPANY
23 (“ORIC”) has been or was a Pennsylvania corporation with a principal place of business in the State
24 of Pennsylvania that is authorized to conduct business as a surety in Clark County, Nevada.

25 30. At all times material herein, Defendant AHEARN TENNIS MANAGEMENT
26 GROUP OF NEVADA, L.L.C. dba INTERNATIONAL TENNIS CENTRE LAS VEGAS
27 (“International Tennis”) has been or is a Nevada limited liability company with a principal place of
28 business in the State of Nevada that is authorized to conduct business in Clark County, Nevada.

31. At all times material herein, Defendant Cinthia Vincent (“C. Vincent”) was and is a resident of Clark County, Nevada.

32. At all times material herein, Defendant Zebeay Workneh (“Z. Workneh”) was and is a resident of Clark County, Nevada.

33. The true names and capacities, whether partnership, individual, corporate, company, associate or otherwise of Defendants JOHN DOES I-XV and ROE ENTITIES I-XV, inclusive, are presently unknown to the Bank. Said Defendants are named herein by fictitious names, but may be responsible or liable to the Bank by virtue of the actions hereinafter described and the Bank reserves the right to amend the Complaint to insert any additional charging allegations, together with the true identities and capacities, when the same have been ascertained, including but not limited to claims arising under N.R.S. 624.273.

III.

GENERAL ALLEGATIONS

A. The Loans, Notes, Modification Agreements, Security Agreements, Guaranty, Collateral and Financing Statements in Favor of the Bank

Loan Numbered 3032002664 (“Loan A”)

34. On or about September 11, 2006, the Bank entered into commercial loan numbered 3032002664 with Defendants MARS, M. Wideen and D. Wideen (collectively “MARS Defendants”) for a revolving line of credit in the amount of One Hundred Forty Thousand Five Hundred Dollars (\$140,500.00), in exchange for the MARS Defendants’ written promise to repay the loan with interest (“Loan A”). A true and correct copy of Loan A is attached hereto and incorporated herein as Exhibit 1.

35. Each of the MARS Defendants executed the promissory note for Loan A. M. Wideen signed the note in his individual capacity and as President of MARS and D. Wideen signed the note in her individual capacity.

36. Under the original terms of Loan A, the MARS Defendants were required to make monthly interest payments to the Bank on the 15th and 30th days of each month and a final lump sum payment of the remaining balance due on September 10, 2007 (“Original Loan A Due

1 Date”).

2 37. Loan A provides that failure to make timely payments will result in default and
3 acceleration of the note on demand.

4 38. Loan A was secured by security agreements dated June 29, 2005 and August 28,
5 2005 (“Commercial Security Agreements”) as follows:

6 THIS LOAN IS SECURED WITH COMMERCIAL SECURITY AGREEMENTS
7 DATED 29 JUNE 2005 EXECUTED BY MITIGATION AND REPAIR
8 SOLUTIONS, INC. AND MCTHOMAS WIDEEN AND DENISE WIDEEN IN
9 FAVOR OF FROSTLINE BUSINESS GROUP, INC. AND SAID SECURITY
10 AGREEMENTS ASSIGNED TO IRELAND BANK. FURTHER SECURED BY
11 COMMERCIAL SECURITY AGREEMENT IN FAVOR OF IRELAND BANK
12 DATED 8 AUGUST 2005 ALSO EXECUTED BY MITIGATION AND REPAIR
13 SOLUTIONS INC AND MCTHOMAS WIDEEN AND DENISE WIDEEN.

14 39. The Commercial Security Agreements grant and assign security interests in
15 various assets of the MARS Defendants, including accounts, inventory, equipment, instruments
16 and chattel paper, general intangibles, documents, government payments and programs,
17 investment property and deposit accounts (“Collateral”). True and correct copies of the
18 Commercial Security Agreements are attached hereto and incorporated herein as Exhibit 2.

19 40. The Bank properly perfected its interest in the Collateral by recording UCC-1
20 Financing Statements and Amendments thereto dated July 16, 2003, August 12, 2005, August 19,
21 2005 and April 9, 2008 (“Financing Statements”). True and correct copies of the Financing
22 Statements are attached hereto and incorporated herein as Exhibit 3.

23 41. The payment and performance obligations under Loan A were further expressly
24 guarantied by M. Wideen and D. Wideen on July 25, 2005 (“Guaranty”). A true and correct copy
25 of the Guaranty is attached hereto and incorporated herein as Exhibit 4.

26 42. The MARS Defendants were unable to meet the Original Loan A Due Date and
27 required an increase in their revolving operating line of credit.

28 43. To extend the Original Loan A Due Date and increase funds available to the
MARS Defendants under Loan A, the Bank entered into various loan modification agreements
with the MARS Defendants the terms of which are briefly summarized below.

///

Loan A Modification Agreements

44. On April 15, 2009, the Bank entered into a loan modification agreement with the MARS Defendants on Loan A. The modification agreement modified the terms of the loan by increasing the maximum loan amount under the note to One Hundred Ninety Thousand Five Hundred Dollars (\$190,500.00). A true and correct copy of the modification agreement dated April 15, 2009 is attached hereto and incorporated herein as Exhibit 5.

45. On September 29, 2009, the Bank entered into a second loan modification agreement with the MARS Defendants on Loan A. Among other things, the modification agreement extended the maturity date on the loan to November 30, 2009. A true and correct copy of the modification agreement dated September 29, 2009 is attached hereto and incorporated herein as Exhibit 6.

46. On November 30, 2009, the Bank entered into a third loan modification agreement with the MARS Defendants on Loan A. Among other things, the modification agreement extended the maturity date on the loan to November 30, 2010. A true and correct of the modification agreement dated November 30, 2009 is attached hereto and incorporated herein as Exhibit 7.

47. On December 16, 2010, the Bank entered into a fourth loan modification agreement with the MARS Defendants on Loan A. The Modification Agreement extended the terms of the maturity date on the loan to December 30, 2011 ("Extended Loan A Maturity Date"). A true and correct copy of the modification agreement dated December 16, 2010 is attached hereto and incorporated herein as Exhibit 8.

Loan Numbered 3032002665 ("Loan B")

48. On or about September 11, 2006, the Bank entered into commercial loan numbered 30320028665 with the MARS Defendants in the sum of Three Hundred Thirty Nine Thousand Four Hundred Thirty One and 63/100 Dollars (\$339,431.63) in exchange for the MARS Defendants' written promise to repay the loan with interest ("Loan B"). A true and correct copy of Loan B is attached hereto and incorporated herein as Exhibit 9.

49. Each of the MARS Defendants executed the promissory note for Loan B. M.

1 Wideen signed the note in his individual capacity and as President of MARS and D. Wideen
2 signed the note in her individual capacity.

3 50. Under the original terms of Loan B, the MARS Defendants were required to make
4 monthly principal and interest payments on the 10th day of each month with a final lump sum
5 payment of the remaining balance due on September 10, 2007 ("Original Loan B Due Date").

6 51. Loan B provides that failure to make timely payments to the Bank will result in
7 default and acceleration of the loan on demand.

8 52. Loan B was secured by the Commercial Security Agreements as follows:

9 THIS LOAN IS SECURED WITH COMMERCIAL SECURITY AGREEMENTS
10 DATED 29 JUNE 2005 EXECUTED BY MITIGATION AND REPAIR
11 SOLUTIONS, INC. AND MCTHOMAS WIDEEN AND DENISE WIDEEN IN
12 FAVOR OF FROSTLINE BUSINESS GROUP, INC. AND SAID SECURITY
13 AGREEMENTS ASSIGNED TO IRELAND BANK. FURTHER SECURED BY
14 COMMERCIAL SECURITY AGREEMENT IN FAVOR OF IRELAND BANK
15 DATED 8 AUGUST 2005 ALSO EXECUTED BY MITIGATION AND REPAIR
16 SOLUTIONS INC AND MCTHOMAS WIDEEN AND DENISE WIDEEN.

17 53. The Commercial Security Agreements grant and assign security interests in the
18 Collateral.

19 54. The Bank properly perfected its interest in the Collateral by recording the
20 Financing Statement.

21 55. The payment and performance obligations under Loan B were further secured by
22 the Guaranty.

23 56. The MARS Defendants were unable to meet the Original Loan B Due Date.

24 57. To extend the Original Loan B Due Date, the Bank entered into various loan
25 modification agreements with the MARS Defendants the terms of which are briefly summarized
26 below.

27 **Loan B Modification Agreements**

28 58. On September 29, 2009, the Bank entered into a loan modification agreement
on Loan B with the MARS Defendants. Among other things, the modification agreement
extended the maturity date on the loan to November 30, 2009. All other terms remained the
same. A true and correct copy of the modification agreement dated September 29, 2009 is

1 attached hereto and incorporated herein as Exhibit 10.

2 59. On November 30, 2009, the Bank entered into a second loan modification
3 agreement on Loan B with the MARS Defendants. Among other things, the modification
4 agreement extended the maturity date on the loan to November 30, 2010. A true and correct
5 copy of the modification agreement dated November 30, 2009 is attached hereto and
6 incorporated herein as Exhibit 11.

7 60. On July 10, 2010, the Bank entered into a third loan modification agreement on
8 Loan B with the MARS Defendants. The modification agreement modified the payment terms
9 on the loan to interest only payments for the months of July 2010 through October 2010. A true
10 and correct copy of the modification agreement dated July 10, 2010 is attached hereto and
11 incorporated herein as Exhibit 12.

12 61. On December 16, 2010, the Bank entered into a fourth loan modification
13 agreement on Loan B with the MARS Defendants. Among other things, the modification
14 agreement extended the terms of the maturity date under the loan to July 30, 2011 ("Extended
15 Loan B Maturity Date"). All other terms remained the same. A true and correct copy of the
16 modification agreement dated December 16, 2010 is attached hereto and incorporated herein as
17 Exhibit 13.

18 **B. The Transaction Documents**

19 62. Loan A and its subsequent modification agreements, Loan B and its subsequent
20 modification agreements, the Commercial Security Agreements, the Financing Statements, the
21 Guaranty and Exhibits 1 through 13 are collectively referred to as the "Transaction Documents".

22 **C. The Breach, Default and Delinquency of the MARS Defendants under the
23 Transaction Documents**

24 63. The Bank asserts that on and after February 28, 2011, the MARS Defendants
25 breached their payment obligations under the Transaction Documents resulting in the default and
26 acceleration of Loans A and B and the total calculated and combined delinquency sum of Two
27 Hundred Sixty Nine Thousand Two Hundred Sixty Seven and 27/100 Dollars (\$269,267.27)
28 ("Delinquency Amount"), as of September 23, 2011. Interest accrues on the Delinquency

1 Amount at the combined rate of Seventy and 74/100 Dollars (\$70.74) per day.

2 64. Under the terms of the Transaction Documents, the MARS Defendants are
3 obligated to pay the Bank the Delinquency Amount in full.

4 65. The Bank is entitled to payment of the Delinquency Amount and injunctive
5 relief preventing the Collateral from transfer or encumbrance, an equitable lien, immediate
6 possession to, and foreclosure of the Collateral to satisfy the balance of the Delinquency Amount.

7 66. Pursuant to the terms of the Transaction Documents, the Bank is entitled to
8 recover its attorney's fees and court costs incurred herein, including the cost of the Bank's
9 actions to enforce the provisions and terms of the Transaction Documents.

10 **D. The Unauthorized Transfer of Collateral by the MARS Defendants to Restotech**

11 67. The MARS Defendants made sales or transfers of the Collateral to Restotech.

12 68. The MARS Defendants failed to obtain the proper authorization of the Bank prior
13 to making the sales or transfers.

14 69. Restotech has failed to pay the Bank for the Collateral and has had the use and
15 enjoyment of the Collateral since its purchase or receipt thereof.

16 70. Restotech claims some right, title or interest in the Collateral by virtue of its
17 purchase from the MARS Defendants, but said claimed right, title or interest is subordinate and
18 inferior to the claim of the Bank.

19 **E. The Accounts Payable Due the MARS Defendants**

20 71. Defendant M. Lamb is indebted to the MARS Defendants as set forth in Invoice
21 No. 110093 dated March 31, 2011 for Purchase Order No. 2011-0078-M in the amount of Five
22 Thousand Forty Six and 06/100 Dollars (\$5,046.06). Pursuant to the Transaction Documents, the
23 delinquency identified herein is properly payable to the Bank out of any and all accounts payable
24 originally due the MARS Defendants from M. Lamb, including but not limited to the invoice
25 identified herein, and the Bank is entitled to injunctive relief against M. Lamb with respect to
26 said accounts payable.

27 72. Defendant CBRE is indebted to the MARS Defendants as set forth in Invoice No.
28 110094 dated March 31, 2011 for Purchase Order No. 2011-0080-CL in the amount of Three

1 Hundred Fifteen and 12/100 Dollars (\$315.12). Pursuant to the Transaction Documents, the
2 delinquency identified herein is properly payable to the Bank out of any and all accounts payable
3 originally due the MARS Defendants from CBRE, including but not limited to the invoice
4 identified herein, and the Bank is entitled to injunctive relief against CBRE with respect to said
5 accounts payable.

6 73. Defendant M. Caldarulo is indebted to the MARS Defendants as set forth in
7 Invoice No. 110095 dated March 31, 2011 for Purchase Order No. 2011-0085-R in the amount of
8 Six Hundred Dollars (\$600.00). Pursuant to the Transaction Documents, the delinquency
9 identified herein is properly payable to the Bank out of any and all accounts payable originally
10 due the MARS Defendants from M. Caldarulo, including but not limited to the invoice identified
11 herein, and the Bank is entitled to injunctive relief against M. Caldarulo with respect to said
12 accounts payable.

13 74. Defendant Sun City is indebted to the MARS Defendants as set forth in Invoice
14 Nos. 110096 and 110110 dated March 31, 2011 and April 201, 2011 for Purchase Order Nos.
15 2011-0076-R and 2011-0096-R in the total amount of at least Two Hundred Twenty Five and
16 85/100 Dollars (\$225.85). Pursuant to the Transaction Documents, the delinquency identified
17 herein is properly payable to the Bank out of any and all accounts payable originally due the
18 MARS Defendants from Sun City, including but not limited to the invoices identified herein, and
19 the Bank is entitled to injunctive relief against Sun City with respect to the value of said accounts
20 payable.

21 75. Defendant NEST is indebted to the MARS Defendants as set forth in Invoice No.
22 11085 dated March 22, 2011 for Purchase Order Nos. WO:6956239 and 2011-0074-R in the
23 amount of Five Thousand Fifty Dollars (\$5,050.00). Pursuant to the Transaction Documents, the
24 delinquency identified herein is properly payable to the Bank out of any and all accounts payable
25 originally due the MARS Defendants from NEST, including but not limited to the invoice
26 identified herein, and the Bank is entitled to injunctive relief against NEST with respect to the
27 value of said accounts payable.

28 76. Defendant HPM is indebted to the MARS Defendants as set forth in Invoice Nos.

1 110089, 110090, 110092, 110088, 110079 dated March 22, 2011, March 31, 2011 and March 10,
2 2011 for Purchase Order Nos. 2011-0077-E, 2011-0069M, 2011-0077-R, 2011-0073-CL and
3 2011-0065-E in the total amount of Ten Thousand Four Hundred Twelve and 52/100 Dollars
4 (\$10,412.52). Pursuant to the Transaction Documents, the delinquency identified herein is
5 properly payable to the Bank out of any and all accounts payable originally due the MARS
6 Defendants from HPM, including but not limited to the invoices identified herein, and the Bank
7 is entitled to injunctive relief against HPM with respect to the value of said accounts payable.

8 77. Defendant Argus is indebted to the MARS Defendants as set forth in Invoice No.
9 110071 dated March 3, 2011 for Purchase Order No. 2011-0057-CL in the amount of Three
10 Hundred Sixty Eight Dollars (\$368.00). Pursuant to the Transaction Documents, the delinquency
11 identified herein is properly payable to the Bank out of any and all accounts payable originally
12 due the MARS Defendants from Argus, including but not limited to the invoice identified herein,
13 and the Bank is entitled to injunctive relief against Argus with respect to the value of said
14 accounts payable.

15 78. Defendant Premier is indebted to the MARS Defendants as set forth in Invoice
16 Nos. 110073-146 and 110087-146 dated March 8, 2011 and March 22, 2011 for Purchase Order
17 Nos. E2750253, 2011-0049-E and 2011-0049-R in the total amount of Twelve Thousand Seven
18 Hundred Fifty-Six and 47/100 Dollars (\$12,756.47). Pursuant to the Transaction Documents, the
19 delinquency identified herein is properly payable to the Bank out of any and all accounts payable
20 originally due the MARS Defendants from Premier, including but not limited to the invoices
21 identified herein, and the Bank is entitled to injunctive relief against Premier with respect to the
22 value of said accounts payable.

23 79. Defendant ERS is indebted to the MARS Defendants as set forth in Invoice Nos.
24 110075 and 110065 dated March 8, 2011 and February 24, 2011 for Purchase Order Nos. 2011-
25 0066-R and 2011-0059-E in the total amount of Four Thousand Three Hundred Thirty-Three and
26 37/100 Dollars (\$4,333.37). Pursuant to the Transaction Documents, the delinquency identified
27 herein is properly payable to the Bank out of any and all accounts payable originally due the
28 MARS Defendants from ERS, including but not limited to the invoices identified herein, and the

1 Bank is entitled to injunctive relief against ERS with respect to the value of said accounts
2 payable.

3 80. Defendant County is indebted to the MARS Defendants as set forth in Invoice No.
4 110063 dated February 24, 2011 for Purchase Order Nos. EKT6557 and 2011-0054-CL in the
5 amount of Eight Hundred Ninety Five and 25/100 Dollars (\$895.25). Pursuant to the Transaction
6 Documents, the delinquency identified herein is properly payable to the Bank out of any and all
7 accounts payable originally due the MARS Defendants from the County, including but not
8 limited to the invoices identified herein, and the Bank is entitled to injunctive relief against the
9 County with respect to the value of said accounts payable.

10 81. Defendant G. Denney is indebted to the MARS Defendants as set forth in Invoice
11 No. 100535 dated July 31, 2010 for Purchase Order No. 2010-0207-R in the amount of One
12 Hundred Sixty Two and 60/100 Dollars (\$162.60). Pursuant to the Transaction Documents, the
13 delinquency identified herein is properly payable to the Bank out of any and all accounts payable
14 originally due the MARS Defendants from G. Denney, including but not limited to the invoice
15 identified herein, and the Bank is entitled to injunctive relief against G. Denney with respect to
16 the value of said accounts payable.

17 82. Defendant Alpine is indebted to the MARS Defendants as set forth in Invoice No.
18 100550 dated August 17, 2010 in the amount of Eight Hundred Thirty Six and 04/100 Dollars
19 (\$836.00). Pursuant to the Transaction Documents, the delinquency identified herein is properly
20 payable to the Bank out of any and all accounts payable originally due the MARS Defendants
21 from Alpine, including but not limited to the invoice identified herein, and the Bank is entitled to
22 injunctive relief against Alpine with respect to the value of said accounts payable.

23 83. Defendant International Tennis is indebted to the MARS Defendants as set forth
24 in Invoice No. 110111 dated April 27, 2011 for Purchase Order No. 2011-0100-E in the amount
25 of Two Hundred Fifty Dollars (\$250.00). Pursuant to the Transaction Documents, the
26 delinquency identified herein is properly payable to the Bank out of any and all accounts payable
27 originally due the MARS Defendants from International Tennis, including but not limited to the
28 invoice identified herein, and the Bank is entitled to injunctive relief against International Tennis

1 with respect to the value of said accounts payable.

2 **F. The Bonds and Indemnifications at Issue**

3 84. Defendant CBIC issued contractor's licensing bond to MARS as Bond No.
4 NB7564 in the amount of Ten Thousand Dollars (\$10,000.00) ("CBIC Bond"). The Bank
5 believes that additional bonds may have been issued by CBIC to MARS, and the Bank reserves
6 the right to amend its Complaint to insert additional charging allegations against such other
7 bonds and/or companies that issued them. The delinquency identified herein is properly payable
8 out of the CBIC Bond.

9 85. On September 25, 2001, Defendants G. Wideen and R. Wideen, as guarantors and
10 as a surety, agreed to act as an indemnitor for claims made against MARS and for claims arising
11 under N.R.S. 624.273, including, but not limited to, injury caused by MARS in the performance
12 of a contract. The Bank has been injured by MARS for its failure to perform under the contracts
13 at issue in this case. The delinquency identified herein is properly payable by G. Wideen and R.
14 Wideen pursuant to the indemnification agreement.

15 86. Defendant WSC issued a contractor's licensing bond to Argus as Bond No.
16 71021574 in the amount of Fifteen Thousand Dollars (\$15,000.00) ("WSC Bond"). The Bank
17 believes that additional bonds may have been issued by WSC or other insurance/bonding
18 companies to Argus, and the Bank reserves the right to amend its Complaint to insert additional
19 charging allegations against such other bonds and/or companies that issued them. The
20 delinquency identified herein is properly payable out of the WSC Bond.

21 87. On June 4, 2001, Defendant M. Peterson as guarantor and as a surety, agreed to
22 act as an indemnitor for claims made against Argus and for claims arising under N.R.S. 624.273,
23 including, but not limited to, injury caused by Argus in the performance of a contract. The Bank
24 has been injured by Argus for its failure to perform under the contracts at issue in this case. The
25 delinquency identified herein is properly payable by M. Peterson pursuant to the indemnification
26 agreement.

27 88. Defendant ACIC issued contractor's licensing bond to Restotech as Bond No.
28 10131575 ("ACIC Bond") in the amount of Twelve Thousand Five Hundred Dollars

1 (\$12,500.00). The Bank beleives that additional bonds may have been issued by ACIC or other
2 insurance/bonding companies to Restotech, and the Bank reserves the right to amend its
3 Complaint to insert additional charging allegations against such other bonds and/or companies
4 that issued them. The delinquency identified herein is properly payable out of the ASIC bond.

5 89. Defendant ORIC issued a contractor's licensing bond to Alpine as Bond No.
6 1227245 in the amount of One Thousand Dollars (\$1,000.00) ("ORIC Bond"). The Bank
7 believes that additional bonds may been issued by ORIC or other insurance/bonding companies
8 to Alpine, and the Bank reserves the right to amend its Complaint to insert additional charging
9 allegations against such other bonds and/or companies that issued them. The delinquency
10 identified herein is properly payable out of the ORIC Bond.

11 **G. The Mechanics' Liens at Issue**

12 90. The MARS Defendants were employed by Defendant Premier as restoration
13 contractors for the improvement of certain real properties purportedly owned by Defendants C.
14 Vincent at 3450 Erva Street, #146, Las Vegas, Nevada, more particularly described as Assessor's
15 Parcel Number 163-17-114-074 ("Vincent Property"), and Z. Workneh at 3450 Erva Street,
16 #246, Las Vegas, Nevada, more particularly described as Assessor's Parcel Number 163-17-114-
17 078 ("Workneh Property").

18 91. Premier failed to pay the MARS Defendants for their work performed on the
19 Vicnent and Workneh Properties.

20 92. On or about May 20, 2011, the MARS Defendants recorded a Mechanic's Lien in
21 the Office of the County Recorder of Clark County, Nevada against the Vincent Property as Book
22 Number 20110520 and Instrument Number 0002693 in the amount of Twelve Thousand Seven
23 Hundred Fifty Six and 47/100 Dollars (\$12,756.47) ("Vincent Lien"). A true and correct copy of
24 the Vincent Lien is attached hereto and incorporated herein as Exhibit 14.

25 93. On or about May 20, 2011, the MARS Defendants recorded a Mechanic's Lien in
26 the Office of the County Recorder of Clark County, Nevada against the Workneh Property as
27 Book Number 20110520 and Instrument Number 0002692 in the amount of Two Thousand
28 Seven Hundred Eighty Four and 02/100 Dollars (\$2,784.02) ("Workneh Lien"). A true and

1 correct copy of the Workneh Lien is attached hereto and incorporated herein as Exhibit 15.

2 94. Pursuant to the Transaction Documents, the Bank is entitled to foreclose upon the
3 Vincent and Workneh Liens to satisfy the delinquency owed by the MARS Defendants as
4 identified herein.

5 **FIRST CAUSE OF ACTION**
6 **[Breach of Contract - All Defendants]**

7 95. The Bank herein repeats, incorporates and realleges Paragraphs 1 through 94 of
8 its Complaint, as if set forth herein hoc verba.

9 96. The MARS Defendants, and each of them, have defaulted on and breached their
10 obligations to the Bank under the Transaction Documents, and each of the MARS Defendants are
11 jointly and severally indebted to the Bank for the full Delinquency Amount now due and owing.

12 97. The Bank has incurred attorney's fees and costs necessary to recover the amounts
13 due and owing.

14 **SECOND CAUSE OF ACTION**
15 **[UCC Enforcement of Notes - MARS Defendants]**

16 98. The Bank herein repeats, incorporates and realleges Paragraphs 1 through 97 of its
17 Complaint, as if set forth herein hoc verba.

18 99. The Bank is entitled to enforcement of the Notes in the full Delinquency Amount
19 pursuant to the Uniform Commercial Code ("Code"), as adopted by the State of Nevada (Nevada
20 Revised Statutes ("NRS") 104.3101 et seq.) or as may be otherwise applicable under the Code as
21 adopted by any other State, including Idaho.

22 **THIRD CAUSE OF ACTION**
23 **[Accounting - All Defendants]**

24 100. The Bank herein repeats, incorporates and realleges Paragraphs 1 through 99 of its
25 Complaint, as if set forth herein hoc verba.

26 101. The Bank is entitled to the Order of this Court directing the MARS Defendants,
27 and each of them, to produce all relevant Transaction Document records for audit, and to
28 complete and provide the Bank with a full, accurate and detailed accounting of the Collateral,
Loans, Notes and Transaction Documents, including, but not limited to, the uses of all Loan

1 advances, the sale and transfer of any Collateral, the use and location of any proceeds of
2 Collateral and the history of the credits and debits related to the Loans and Delinquency Amount.

3 **FOURTH CAUSE OF ACTION**
4 **[Enforcement of Guaranties - Defendants M. Wideen and D. Wideen]**

5 102. The Bank herein repeats, incorporates and realleges Paragraphs 1 through 101 of
6 its Complaint, as if set forth herein hoc verba.

7 103. The Bank is entitled to a Judgment against Defendants M. Wideen and D. Wideen
8 in the full sum of the Delinquency Amount pursuant to the terms and provisions of the Guaranty
9 and Transaction Documents.

10 **FIFTH CAUSE OF ACTION**
11 **[Injunctive Relief - All Defendants]**

12 104. The Bank herein repeats, incorporates and realleges Paragraphs 1 through 103 of
13 its Complaint, as if set forth herein hoc verba.

14 105. The Bank is entitled to a Preliminary Injunction and Permanent Injunction
15 prohibiting the Defendants from any acts with respect to the Collateral in order to preserve the
16 Bank's rights under the Transaction Documents, including, but not limited to, Orders: (i)
17 enjoining any further encumbrance of the Collateral; (ii) enjoining any transfer, conveyance, sale,
18 disposition, use or assignment of the Collateral or its Proceeds; and (iii) delivering possession of
19 the Collateral to the Bank.

20 **SIXTH CAUSE OF ACTION**
21 **[Claim for Priority of Interest in the Collateral - the MARS Defendants, Restotech and**
22 **JOHN DOES I-XV and ROE ENTITIES I-XV]**

23 106. The Bank herein repeats, incorporates and realleges Paragraphs 1 through 105 of
24 its Complaint, as if set forth herein hoc verba.

25 107. The MARS Defendants breached their obligations under the Transaction
26 Documents when it made unauthorized transfers of the Collateral to Restotech.

27 108. The Bank properly perfected its interest in the Collateral when it filed the
28 Financing Statements.

109. Restotech failed to perform a UCC Search prior to purchasing/receiving the
Collateral from the MARS Defendants, or willfully ignored the Bank's recorded security interest.

1 110. The Bank's interest in the Collateral and proceeds therefrom is higher than
2 Restotech's interest because the Bank perfected its security interest in the Collateral first.

3 111. The Bank is entitled to this Court's Judgment declaring that it has first rights in
4 the Collateral and proceeds therefrom and is entitled to injunctive relief against Restotech,
5 including but not limited to, repossession and/or recovery of the value of the Collateral or the
6 proceeds therefrom.

7 **SEVENTH CAUSE OF ACTION**
8 **[Unjust Enrichment - All Defendants]**

9 112. The Bank herein repeats, incorporates and realleges Paragraphs 1 through 111 of
10 its Complaint, as if set forth herein hoc verba.

11 113. Restotech has not paid the Bank for the Collateral, yet has had the use and
12 enjoyment of the Collateral since the transfer.

13 114. The use of the Collateral without payment to the Bank constitutes an unjust
14 enrichment of Restotech at the Bank's expense.

15 115. As a result of the unjust enrichment of Restotech, the Bank has been damaged
16 in an amount to be proven at trial.

17 **EIGHTH CAUSE OF ACTION**
18 **[Demand for Relief on Bonds and Indemnification Agreements - Defendants CBIC, WSC,**
19 **ACIC, ORIC, G. Wideen, R. Wideen, M. Peterson and JOHN DOES I-XV and ROE**
20 **ENTITIES I-XV]**

21 116. The Bank herein repeats, incorporates and realleges Paragraphs 1 through 115 of
22 the Complaint, as if set forth herein hoc verba.

23 117. The Bank is a beneficiary under the Bonds.

24 118. The conduct of MARS, Restotech, Argus and Alpine in performance of
25 agreements was wrongful.

26 119. The Bank's claims as set forth herein are covered by the Bonds. Accordingly,
27 any Bond proceeds should be applied to pay the Bank in satisfaction of its claims herein.

28 120. Each indemnitor is liable to the Bank for the acts alleged herein.

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NINTH CAUSE OF ACTION
[Enforcement of Mechanic's Liens - Defendants C. Vincent, Z. Workneh and JOHN DOES I-XV and ROE ENTITIES I-XV]

121. The Bank herein repeats, incorporates and realleges Paragraphs 1 through 120 of its Complaint, as if set forth herein hoc verba.

122. The MARS Defendants were employed by Defendant Premier as restoration contractors for the improvement of real properties purportedly owned by Defendants C. Vincent and Z. Workneh.

123. Pursuant to the agreements with Premier, the MARS Defendants made the agreed upon improvements to the Vincent and Workneh Properties with the accompanying labor, equipment and materials.

124. Said materials and labor were incorporated into the Vincent and Workneh Properties and constitute improvements to said properties as that term is defined by N.R.S. § 108.22128.

125. Premier failed to pay the MARS Defendants for their work performed on the Vincent and Workneh Properties.

126. The MARS Defendants claim a statutory lien against the Vincent Property in the amount of \$12,756.47 ("Vincent Lien"), plus accrued interest, costs and attorney's fees as provided by Chapter 108 of the N.R.S. for improvements to the property, which has not been paid to date.

127. The MARS Defendants claim a statutory lien against the Workneh Property in the amount of \$2,784.02 ("Workneh Lien"), plus accrued interest, costs and attorney's fees as provided by Chapter 108 of the N.R.S. for improvements to the property, which has not been paid to date.

128. Pursuant to the Transaction Documents, the Bank is entitled to foreclose upon the Vincent and Workneh Liens to satisfy the delinquency owed by the MARS Defendants as identified herein.

129. The Bank has complied, or is in the process of complying with, all statutory prerequisites to a foreclosure sale to satisfy the obligations incurred by the Defendants Premier,

1 C. Vincent and Z. Workneh.

2 130. The Bank is entitled to this Court's Judgment pursuant to N.R.S. § 108.239
3 authorizing enforcement of the Vincent and Workneh Liens by foreclosure and sale to recover
4 the sum of the liens, with attorney's fees, prejudgment interest and costs incurred herein pursuant
5 to N.R.S. §§ 18.005, 18.010, 30.120 and 108 et seq.

6 **TENTH CAUSE OF ACTION**
[Declaratory Relief - All Defendants]

7 131. The Bank herein repeats, incorporates and realleges Paragraphs 1 through 130 of
8 its Complaint, as if set forth herein hoc verba.

9 132. This Action is brought pursuant to the Uniform Declaratory Judgments Act, as set
10 forth in N.R.S. 30.010 through N.R.S. 30.160.

11 133. The Bank is entitled to a Declaratory Judgment establishing all parties' relative
12 rights and obligations under the Transaction Documents, Bonds and Indemnification Agreements
13 and Collateral and to rank their priorities.

14 134. The Bank is entitled to a Declaratory Judgment enforcing the Vincent and
15 Workneh Liens and authorizing a sale of the Vincent and Workneh Properties to satisfy the Mars
16 Defendants delinquency identified herein.

17 WHEREFORE, the Bank prays for this Court's Order and Judgment against the
18 Defendants, and each of them, as follows:

- 19 1. For damages in an amount to be proven at trial;
- 20 2. For injunctive relief directing payment to the Bank and prompt delivery and
21 possession of the Collateral;
- 22 3. For prejudgment and post-judgment interest accrued on the Delinquency Amount
23 at the daily combined rate of \$70.74 from February 15, 2011;
- 24 4. For an accounting;
- 25 5. For judicial foreclosure and sale of the Collateral to satisfy the Delinquency
26 Amount;
- 27 6. For a Declaratory Judgment determining the Bank's rights and obligations
28 under the Transaction Documents, Collateral, Bonds and Indemnification Agreements;

By: /s/ Sara D. Cope
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